

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MYLAN PHARMACEUTICALS, INC., *et al.*, :  
 : Civ. No. 12-3824  
 :  
 Plaintiffs, : Indirect Purchaser Action  
 :  
 v. :  
 :  
 WARNER CHILCOTT PUBLIC LIMITED :  
 COMPANY, *et al.*, :  
 :  
 Defendants. :  
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**DECLARATION OF JOE P. LENISKI, JR. IN SUPPORT OF APPLICATION OF  
BRANSTETTER, STRANCH & JENNINGS, PLLC FOR AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF EXPENSES**

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I, JOE P. LENISKI JR., pursuant to 28 U.S.C. §1746, declare as follows:

1. I am a partner at Branstetter, Stranch & Jennings, PLLC and I submit this declaration in support of my firm's application for an award of attorneys' fees and for the reimbursement of expenses incurred in the prosecution in the above-captioned litigation (the "Action").

2. The statements and information that follow are based upon my personal knowledge, information collected from Branstetter, Stranch & Jennings PLLC's books and records, and from information provided to me from employees working under my supervision and control.

3. Branstetter, Stranch & Jennings PLLC represents Laborers' Trust Fund for Northern California in the Action. During the course of this litigation, my firm has, among other things: (a) reviewed the Complaint, pleadings, orders, and other filings in this case; (b) responded to expedited discovery requests ordered by the Court, including searching for, collecting, reviewing, and processing client answers and documents provided in response to numerous and detailed interrogatory and discovery requests; (c) conducted legal research pertinent motions to dismiss and motions for class certification; (d) coordinated with lead counsel and opposing counsel concerning the conduct of depositions of the client, including numerous meet and confer efforts relevant thereto; (e) travel and preparation pertinent to expedited deposition of client representative over Memorial Day weekend, 2014; (f) participated in settlement discussions and reviewed settlement terms and agreements; and (g) reviewed and provided comment on motion for preliminary approval of the settlement and approval of class notice.

4. The firm's résumé is attached to this declaration as Exhibit A.

5. Branstetter, Stranch & Jennings PLLC has spent 155.50 hours litigating this Action. Its lodestar, as set forth in the chart below, totals \$89,630.00, and is based on current hourly rates, which are usual and customary in an action of this type. In preparing the chart shown below, I exercised billing discretion and excluded any individual who billed less than ten hours on this matter.

<i>Name</i>	<i>Total Hours</i>	<i>Hourly Rate</i>	<i>Total Lodestar</i>
Partners			
Joe P. Leniski, Jr.	87.5	\$625.00	\$54,687.50
J. Gerard Stranch, IV	43.7	\$625.00	\$27,312.50
James G. Stranch, III	.4	\$725.00	\$290.00
Total Partners		\$82,290.00	\$82,290.00
Of Counsel			
Robert Richardson	8.7	\$400.00	\$3,480.00
Total Of Counsel		\$3,480.00	
Attorney			
Andrew Boulineau	8.0	\$325.00	\$2,600.00
Total Associates		\$2,600.00	
Paralegals			
Lisa Casey	7.2	\$175.00	\$1,260.00
Total Paralegals		\$1,260.00	
<b>TOTALS</b>	<b>155.5</b>		<b>\$89,630.00</b>

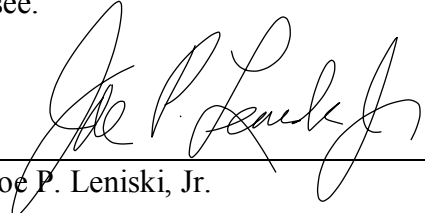
6. Branstetter, Stranch & Jennings PLLC has incurred expenses in this Action that total \$12,020.01. A breakdown of the expenses are set forth in the chart below:

<i>EXPENSE</i>	<i>TOTAL</i>
Courier	
Court Reporters/Transcripts	2,891.94
Document Production/Storage	

<i>EXPENSE</i>	<i>TOTAL</i>
Expert(s)	
Filing, Witness & Other Fees	116
Mediation	
On-Line Research	
Photocopies	
Postage	24.87
Press Releases	
Staff Overtime	
Supplies	
Telephone, Facsimile	
Travel (Meals, Hotels & Transportation)	8,987.20
<b><i>TOTAL</i></b>	<b>\$12,020.01</b>

7. All of the time and expenses incurred in prosecuting the Action are reflected in the books and records of Branstetter, Stranch & Jennings PLLC, which are supported by vouchers, checks, and other documents.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3<sup>rd</sup> day of November, 2014, at Nashville, Tennessee.

  
 \_\_\_\_\_  
 Joe P. Leniski, Jr.

**EXHIBIT A**



227 Second Avenue North  
Nashville, Tennessee 37201-1631  
615-254-8801  
Fax: 615-255-5419

## Firm Profile:

Branstetter, Stranch & Jennings, PLLC has been providing diverse legal services to its clients for over sixty years. Originally founded as Crownover, Branstetter & Folk, and now Branstetter, Stranch & Jennings, PLLC, the firm is listed in the Bar Register of Preeminent Lawyers. Currently comprised of seven (7) Members, four (4) Associates and one of Counsel, the firm is dedicated to providing a full range of legal services to its diverse clientele. In addition to providing quality legal services, the firm is proud of the professional and civic leadership that its members have provided both locally and nationally. Our former Managing Partner, Jane Branstetter Stranch, was nominated by President Obama to the United States Court of Appeals for the 6th Circuit, and now serves as judge on that court following her confirmation by the U.S. Senate.

## Year Established:

1952

## Statement of Practice:

General Litigation Practice in State, Federal and Appellate Courts; Class Actions and Complex Litigation; Mass Tort; Antitrust Law; Securities Law; Shareholder Derivative Law; Consumer Protection; Labor and Employment Law; ERISA and Pension Law; Commercial Litigation; Utility Law; Municipal Law; Personal Injury; Workers' Compensation; and, Social Security Claims.

## Members and Associates:

**Cecil D. Branstetter**, (Member Emeritus – Deceased May 7, 2014) born Morgan County, Tennessee; admitted to bar, 1949, Tennessee. **Education:** Lincoln Memorial University and George Washington University (B.A., 1946); Oxford University, England and Vanderbilt University (J.D., 1949). Order of the Coif; Delta Theta Phi. Member, Board of Editors, Vanderbilt Law Review, 1949. Member, Tennessee Legislature, 1951-1953. **Member:** Nashville, Tennessee (President, Junior Section, 1952-1953) and American Bar Associations; Nashville and Tennessee Bar Foundations; Tennessee Association of Criminal Defense Lawyers, Tennessee Trial Lawyers; American Board of Trial Advocates; The Association of Trial Lawyers of America. **Practice Areas:** Personal Injury; Public Utility Law; Regulated Industries; Municipal Law; Labor Law; Employment Law; Administrative Law; Civil Litigation.

**R. Jan Jennings**, (Member); admitted to bar, 1975, Tennessee and U.S. District Court, Eastern District of Tennessee; 1976, Georgia and U.S. Court of Appeals, Fifth Circuit; 1979, U.S. Court of Appeals, Sixth Circuit; 1981, U.S. Court of Appeals, Eleventh Circuit; 1984, U.S. Court of Appeals for the Federal Circuit and U.S. Supreme Court. **Education:** East Tennessee State University (B.S., 1964; M.B.A., 1966); University of Tennessee at Knoxville (J.D., 1974). Editor, Tennessee Law Review, 1973-1974. Member, Panel of Arbitrators, American Arbitration Association. **Member:** Tennessee Bar Association; State Bar of Georgia. **Practice Areas:** Litigation; ERISA; Labor; Personal Injury.

**Joe P. Leniski, Jr.**, (Member) born Mishawaka, Indiana; admitted to bar, 2003, Tennessee; 2004, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court for Western Tennessee; 2005, U.S. Court of Appeals for the Sixth Circuit; **Education:** University of Notre Dame (B.A., cum laude, 2000), Vanderbilt University Law School (J.D., 2003). Vanderbilt Bar Association, President; Trial Advocacy Association, member; Vanderbilt Juvenile Practice Clinic; **Member:** Nashville and Tennessee Bar Associations; American Bar Association; Harry Phillips American Inn of Court. **Practice Areas:** Civil Litigation; Class Actions and Complex Litigation; Antitrust Law; Shareholder Derivative Law; Labor and Employment; Consumer Protection; and ERISA.

**Donald L. Scholes**, (Member) born Nashville, Tennessee; admitted to bar, 1982, Tennessee. **Education:** Belmont College (B.S., 1977); University of Tennessee (J.D., 1982). Research Editor, Tennessee Law Review, 1981-1982; Assistant General Counsel, Tennessee Public Service Commission, 1983-1987. **Member:** Nashville and Tennessee Bar Associations. **Practice Areas:** Municipal; Public Utility; Workers Compensation; Social Security.

**James G. Stranch, III**, (Member) born Abbeville, South Carolina; admitted to bar, 1973, Tennessee; 1974, U.S. District Court, Middle District of Tennessee; U.S. Tax Court; 1980, U.S. Supreme Court; 1982, U.S. Court of Appeals, Sixth Circuit; 1986, U.S. Court of Appeals, Eleventh Circuit; 1991, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2008, U.S. Court of Appeals, Ninth Circuit; 2002, U.S. District Court, Colorado. **Education:** Dobbins-Bennett High School, Kingsport, Tennessee; University of Tennessee (B.S., 1969; J.D., 1973). Phi Delta Phi. **Member:** Appellate Court Nominating Committee, Secretary, 1985-1991; AFL-CIO Lawyer's Coordinating Advisory Committee; Nashville, Tennessee (Chairman, Labor Law Section, 1991-1992) and American Bar Associations; Tennessee Trial Lawyers Association. **Practice Areas:** Labor and Employment; Class Actions and Complex Litigation; Shareholder Derivative Law; Consumer Protection; ERISA; Securities Law; Civil Litigation; and Municipal Law.

**J. Gerard Stranch, IV**, (Member) born Nashville, Tennessee; admitted to bar, 2003, Tennessee, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court for Western Tennessee; 2004 U.S. Court of Appeals, Sixth Circuit. **Education:** Emory University (B.A. 2000); Vanderbilt University Law School (J.D., 2003). **Member:** Nashville and Tennessee Bar Associations; American and Tennessee Association for Justice, Class Action Trial Lawyers Association executive committee member, and AFL-CIO Lawyers Coordinating Committee **Practice Areas:** Class Actions and Complex Litigation; Mass Torts; Securities Law; Labor and Employment; Consumer Protection; ERISA; Civil Litigation; Personal Injury and Wrongful Death.

**Michael G. Stewart**, (Member) born Alexandria, Virginia; admitted to bar, 1994. **Education:** University of Pennsylvania (B.A. 1987); University of Tennessee College of Law (J.D. 1994). **Member:** Nashville, Tennessee, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation; Securities; Consumer Protection.

**Michael J. Wall**, (Member) born Cincinnati, Ohio; admitted to bar, 2005, Tennessee; 2006, U.S. District Court, Middle District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2009, U.S. District Court, Eastern District of Tennessee; 2006, U.S. Court of Appeals, 6th Circuit; 2010, U.S. Court of Appeals, 11th Circuit; 2011, U.S. Court of Appeals, 8th Circuit; 2009, U.S. Supreme Court. **Education:** Vanderbilt University (B.A., 2002); Vanderbilt University Law School (J.D., 2005). **Member:** Nashville, Tennessee, and American Bar Associations. **Practice Areas:** Civil Litigation; Labor and Employment; ERISA; Class Actions and Complex Litigation.

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**Karla M. Campbell**, (Associate), admitted to Tennessee Bar 2009, U.S. District Court, Middle District of Tennessee 2011, U.S. Court of Appeals, 6<sup>th</sup> Circuit 2011; **Education:** University of Virginia (B.S., 2002); Georgetown University Law Center (J.D., 2008); **Clerkship:** Hon. Jane B. Stranch, U.S. Court of Appeals, 6<sup>th</sup> Circuit (2010-2011); **Member:** Nashville, Tennessee, and American Bar Associations; **First Year Director:** Lawyers Association for Women; **Practice Areas:** Civil Litigation; Labor and Employment; Complex Litigation; and ERISA.

**Benjamin A. Gastel**, (Associate), admitted to Georgia Bar 2007, Georgia Court of Appeals 2008, U.S. District Court, Northern District of Georgia 2008, Georgia Supreme Court 2010, Tennessee Bar 2010, Tennessee Supreme Court 2010, U.S. District Court, Middle District of Tennessee, 2011. **Education:** University of Dayton (B.S., 2004); Vanderbilt School of Law (J.D., 2007). **Member:** Nashville, Tennessee, Georgia, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation; Civil Litigation; Consumer Securities and Fraud, Antitrust Litigation; and Labor and Employment.

**Seamus T. Kelly**, (Associate), admitted to Tennessee Bar 2013. **Education:** Trinity College, University of Dublin (B.A., 2004); Vanderbilt School of Law (J.D., 2013). **Member:** Nashville, Tennessee, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation; Civil Litigation; Consumer Securities and Fraud; Consumer Protection; and Labor and Employment.

**Raquel L. Bellamy**, (Associate), admitted to Tennessee Bar 2011. **Education:** Oakwood University (B.S., Finance, B.A., Spanish, 2007); Vanderbilt School of Law (J.D., 2011). **Member:** Nashville Bar Association, American Immigration Lawyers Association. **Practice Areas:** Immigration; Civil Litigation; and Labor and Employment.

**Robert E. Richardson, Jr.**, (Of Counsel) born Cincinnati, Ohio; admitted to bar, Ohio; **Education:** University of Cincinnati (BSE) University of Cincinnati (J.D.) **Member:** Ohio Bar Association, Cincinnati Branch of the NAACP, the Cincinnati Park Board, the Hamilton Democratic Executive Board, and the Lawyers Coordinating Committee for the AFL-CIO and the Board of Trustees of the University of Cincinnati. **Practice Areas:** Labor and Employment, Products Liability Litigation, and General Litigation.

## Noteworthy Cases:



**Branstetter, Stranch & Jennings, PLLC** has been involved in a number of class actions, shareholder derivative, securities, and other complex cases both in Tennessee courts and federal courts throughout the nation. The firm's efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions. While the firm has also defended numerous such actions, the following is a list of notable complex litigation cases that the firm is currently prosecuting, or has prosecuted to a successful conclusion:

## ANTITRUST CASES

- Plumbers & Pipefitters Local 572 Health & Welfare Fund et al. v. Bristol-Myers Squibb Co., No. 00-C-2524, (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in action against Bristol-Myers alleging violations of the Tennessee Consumer Protection Act and the Tennessee Trades Practice Act and other theories as a result of anti-competitive, unfair and deceptive acts and practices regarding Bristol-Myers' marketing and selling of the drug Taxol. A global settlement was reached in conjunction with a multi-state indirect companion case in the District of Columbia.
- In re: Columbia/HCA Healthcare Corporation Billing Practices Litigation, No. 3-98-MDL-1227 (M. D. Tenn.) (Higgins). The firm served as liaison counsel in a multi-district litigation brought on behalf of all third-party payers against Columbia Health Care Corporation/HCA Healthcare Corporation alleging over-billing for services. Settlement was reached on a cash payment, modifications in billing documents and admission practices.
- Sherwood et al. v. Microsoft Corporation, No. 99-C-3562 (Davidson Circuit, Tennessee) (Judge Kurtz). Lead counsel in a consumer and indirect purchaser Tennessee class action against Microsoft Corporation alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. Settlement was reached that was valued at \$64 million.
- Lankford v. Dow Chemical et al., No. 04-1517 (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in a consumer and indirect purchaser class action filed on behalf of Tennessee purchasers of products containing neoprene against Dow Chemical Company, E.I. du Pont de Nemours and DuPont Dow Elastomers LLC alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. A multi-state settlement was reached that was valued at \$4.2 million.
- In re: Pharmaceutical Industry Average Wholesale Price Litig., MDL No. 1456, No. 01-cv-12257-PBS (D. Mass). Counsel in a consolidated nationwide class action against pharmaceutical manufacturers, alleging that defendants published fictional Average Wholesale Prices which artificially inflated the prescription drug prices charged to the Firm's clients and other third-party payors throughout the nation. The case was ultimately settled with various defendants for approximately \$350 million.
- In re: Wellbutrin XL Antitrust Litigation, No. 08-2433 (E.D. Penn.) (Judge McLaughlin). Branstetter, Stranch & Jennings serves as Co-Lead counsel in an antitrust class action against pharmaceutical companies GlaxoSmithkline and Biovail on behalf of third-party payors alleging that defendants violated Tennessee, California, Florida, Wisconsin, and Nevada laws by colluding to illegally suppress a cheaper generic form of the blockbuster drug Wellbutrin XL from reaching the market. Through the efforts of the Firm and other co-lead counsel, plaintiffs were able to achieve certification of a class of indirect purchasers. A Settlement was reached with Biovail and the litigation continues against GSK.
- In re: Prograf Antitrust Litigation, No. 11621 (D. Mass) (J. Zobel). Serving in the role of Co-Lead

Counsel, Branstetter, Stranch & Jennings represents a putative class of indirect purchaser plaintiffs in a nationwide antitrust action against Astellas Pharma, Inc., alleging that defendant illegally delayed entry of generic Prograf into the marketplace by filing a sham Citizen Petition with the Food and Drug Administration. Achieved partial class certification and withstood motions for summary judgment. The case is set for trial in January, 2015.

- In re: Effexor Antitrust Litigation, No. 3:11-cv-5661 (D.N.J.) (J. Pisano). Branstetter, Stranch & Jennings's client serves on the Executive Committee overseeing this end payor antitrust class action against defendants Wyeth Pharmaceuticals, the manufacturer of antidepressant medication Effexor XR, and Teva Pharmaceuticals. This lawsuit alleges Defendant Wyeth unlawfully procured the patents underling Effexor XR, filed sham litigation against generic competitors, and then entered into anti-competitive settlement agreement with Teva in order to delay the arrival of generic forms of Effexor XR, causing plaintiffs to pay supracompetitive prices for Effexor XR, when they could have paid for far cheaper generics.
- In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-71 (GMS) (D. Del.) (Judge Sleet). Counsel in an antitrust class action on behalf of end-payors against manufacturers of the brand-name drug Toprol XL. The case was resolved through a settlement totaling \$11 million.
- In re: Skelaxin (Metaxalone) Antitrust Litigation, No. 1:12-cv-194 (E.D. Tenn.) (J. Collier). The Firm was appointed Lead Counsel in an antitrust class action on behalf of end-payors regarding monopoly practices which prevented the sale of generic Skelaxin, a muscle-relaxant prescription drug. The case against defendant Mutual Pharmaceuticals, Inc. was settled on a class basis for a sum total of \$9 million, and has been preliminarily approved. The lawsuit against defendant King Pharmaceuticals, Inc. was settled on a non-class basis on behalf of the named plaintiffs.
- Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company et al. (Doryx Indirect Purchaser Antitrust Action), No. 2:12-cv-03824 (E.D. Penn.) (J. Diamond). The Firm served as counsel in an antitrust class action on behalf of indirect purchasers regarding antitrust conduct committed by the manufacturer of brand drug Doryx. The case was settled on a class basis and is in the preliminary approval phase.
- Dahl v. Bain Capital Partners, LLC, No. 07-cv-1238 (D. Mass) (J. Young). The Firm served on the Executive Committee in this Federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry. The parties reached a \$590.5 million settlement approximately two months before trial.

## SECURITIES AND SHAREHOLDER DERIVATIVE CASES

- In re: Omnivision Technologies, Inc. Securities Litigation, Civil No. 5:11-cv-05235 (N.D. Cal.). Co-Lead counsel in securities litigation alleging material misstatements in communications with investors related to Omnivision's supplier contract with Apple, Inc. The case was ultimately settled on a class basis, and is in the preliminary approval phase.
- Arlow, et al., v. Miller Energy Resources, Inc., Civil No. 3:11-CV-386 (E.D. Tenn.) (Judge Varland).

Liason counsel in securities litigation alleging fraudulent accounting practices that overvalued assets and inflated stock prices. The case was ultimately settled for \$2.9 million. The case is in the preliminary approval phase.

- Austin v. Walton et al. (Wal-Mart Mexico Bribery Shareholder Derivative Action), Case No. CV-12-201 (Pope County Circuit Court, Arkansas) (J. Pearson). The firm is lead counsel in the Arkansas State court shareholder derivative action seeking relief on behalf of retailer Wal-Mart, Inc. against its board of directors regarding the massive bribery scandal involving its Mexican subsidiary, Wal-Mex. The case was removed to the Eastern District of Arkansas before Judge Moody, where a motion to remand is pending.
- In re: Regions Morgan Keegan Securities, Derivative & ERISA Litigation, Closed-End Fund Litigation, Civil No. 07-cv-02830 (W.D. Tenn.) (Judge Mays). Liason counsel for lead plaintiffs in securities litigation alleging fraud in the marketing and selling of corporate bonds and preferred stocks by failing to disclose investments in asset backed securities and mortgage-backed securities. The parties settled the case for \$62 million.
- In re: King Pharmaceuticals, Inc. Derivative Litigation, Civil. No. B0019077 (M) (Sullivan Chancery, Tennessee) (Judge McLellan). Lead counsel in a shareholder derivative action against the Board of Directors and certain officers at King Pharmaceuticals alleging various breaches of fiduciary duty, abuse of control, unjust enrichment and waste of corporate assets. The parties settled the case for substantial and material revisions to the Company's corporate governance practices.
- Carolinas Electrical Workers Retirement Fund v. Kramer et al., Civ. No. H-01-1176 (S. D. TX). Co-lead counsel in a shareholder derivative suit brought on behalf of American General Corporation alleging that the then directors of the corporation breached its then fiduciary duties in connection with a purposed merger with Prudential Insurance Company. The case was successfully resolved when the merger was cancelled. American General later merged with AIG.
- Holle v. Prison Realty, Inc., Case No. 99-1719-III, (Davidson County Chancery) (Chancellor Lyle). Shareholder class action on behalf of shareholders of Prison Realty Trust against its board of directors for breaches of fiduciary duties and self-dealings. Settlement was reached in conjunction with a global settlement of a securities case in federal court.
- Brand et al. v. Welch et al., Case No. 00C-3066 (Davidson County Circuit) (Judge Gayden). Counsel in a shareholder action alleging breaches of fiduciary duties in connection with the merger between Quorum Corporation and Triad. A settlement was reached in which shareholders received greater value for their stock than offered in the original merger.
- Dollar General Derivative Litigation (Dixon et al v. Turner, et al), Case No. 01C-1322 (Davidson County Circuit, Tennessee) (Judge Shipley). Lead counsel in a shareholder derivative action against directors of Dollar General Corporation alleging breaches of fiduciary duties, waste of corporate assets, unjust enrichment, and gross mismanagement. Settlement of the case included \$31.5 million cash payment to the corporation and significant corporate governance changes. The settlement is the largest derivative settlement in Tennessee history.
- Benkler v. Miller et al., Case No. 00C-2630 (Davidson County, Tennessee) (Judge Soloman). Counsel in a shareholder derivative action against directors of Sirrom Capital Corporation alleging breaches of fiduciary duties in connection with merger between Sirrom Capital Corporation and

Finova Financial. A global settlement was reached in conjunction with securities cases that were filed or transferred to Arizona.

- Central Laborers' Pension Fund v. Chellegren, Civ. No. 02-CI-02174 (Kenton Circuit, Kentucky). Settlement in a shareholder derivative action against the Board of Directors and certain officers at Ashland, Inc. relating to accounting practices which harmed the company. The settlement resulted with a cash payment and significant corporate governance changes.
- Clayton Homes Derivative Litigation, Case No. E-19723 (Blount Circuit, Tennessee) (Young). Lead counsel in a shareholder derivative action originally against the Board of Directors and certain officers at Clayton Homes for breaches of fiduciary duties and corporate waste. During the litigation, Clayton Homes was purchased by Berkshire Hathaway. Settlement was reached with shareholders obtaining additional money for their shares of Clayton Homes in the purchase
- National Commerce Financial Shareholder Litigation, CT-002672-04 (Shelby Circuit, Tennessee). Counsel in a shareholder action contesting the value of National Commerce stock in its merger with SunTrust. Settlement was reached.
- Accredo Health Derivative Litigation, Case No. CT-002203-03 (Shelby Circuit, Tennessee) (Judge Fields). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Accredo Health alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Accredo merged during the litigation. Settlement was reached.
- Provident Financial Derivative Litigation, No. C-1-08-168 (S.D. Ohio). Counsel in a shareholder derivative action against the Board of Directors and certain officers at Provident Financial alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Settlement was reached.
- In re: Worldcom Securities Litigation, No. 03-27211 (Davidson Chancery, Tennessee) (Judge McCoy). Co-lead counsel in a securities action by the Tennessee Consolidated Retirement System against the banks that underwrote Worldcom bonds during a period of time in which Worldcom was manipulating its accounting. Settlement was reached that provided a recovery to the retirement system of \$7 million.
- In re: UnumProvident Derivative Litigation, No. 1:02CV-386 (E.D. Tenn.) (Judge Collier). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers of UnumProvident alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. A settlement of this case that involves a payment of \$30 million to the company plus significant corporate governance changes has been approved by the court.
- In re: AFC Enterprises Derivative Litigation, Civil No. 1:03-CV-2095TWT (N.D. Ga.) (Thrasher). One of three lead counsel in a shareholder derivative action against the Board of Directors and certain officers at AFC Enterprises alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets resulting from improper accounting practices and insider trading. Settlement was reached which provided for corporate governance changes.
- In re: Dynegey, Inc., Derivative Litigation, Civil No. 2002-25250 (Harris County, Texas) (Jamison). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Dynegey, Inc. alleging various breaches of fiduciary duty, abuse of control, and waste of corporate

assets. Settlement was reached with significant corporate changes and resignation of key corporate officers and certain directors.

- In re: Direct General Corporation Derivative Litigation, Civil No. 3:05-CV-00158 (M.D. Tenn.)(Campbell). Co-lead counsel in litigation against the Board of Directors and certain officers of Direct General Corporation alleging various breaches of fiduciary duty resulting from financial manipulations, insider selling, and misconduct in connection with a proposed private-equity sale of the company. The parties ultimately reached a settlement for additional material disclosures in the proxy materials and a substantial payment to shareholders if the company is sold by the acquiring entity for more than the merger consideration within nine months of the consummation of the private-equity sale.
- In re: Caremark RX, Inc. Stock Option Litigation, Civil No. 06-C-1329 (Davidson County, Tennessee). Co-lead counsel in litigation against the board of directors of Caremark RX, Inc. alleging breach of fiduciary duties resulting from the Board's attempt to merge the company with CVS Corporation, Inc. and extinguish their liability for improperly backdating stock option grants to certain Board members and high-ranking officers at the Company. A settlement was reached that provided for corporate governance reforms concerning the granting of options, additional disclosures to voting shareholders prior to the merger vote, and recognition that the case indirectly resulted in additional compensation to shareholders.
- In re: HCA Inc. Shareholder Litigation, Civil No. 3:05-CV-0968 (Middle District of Tennessee)(J. Haynes). Co-lead counsel representing shareholders of Hospital Corporation of America (HCA) Inc., alleging that the company's board of directors breached their fiduciary duties by approving a private-equity buyout of the company at an unfair price via an unfair process. A settlement was reached with provided for enhanced appraisal rights for shareholders, reduced termination fee, a "majority of the minority" provision, and additional material disclosures in the proxy materials.
- Fisk v. Alfa Corporation, Civil No. 03-CV-2007-900485.00 (Montgomery County, Alabama). Co-lead counsel representing shareholders of Alfa Corporation, alleging that the company's board of directors breached their fiduciary duties by engaging in self-dealing and approving a sale of the company to private interests for grossly inadequate consideration. A settlement was reached that resulted in an approximate additional \$161 million being paid to the shareholder class.

## ERISA AND RELATED CASES (401K, ESOP, TRUST LAW)

- Ewing et al. v. Neuhoff, et al. (Law and Equity Court, Montgomery County, Tennessee) (Judge Boles). Lead counsel in a class action that resulted in a successful jury verdict against directors of Frosty Morn, Inc. for unlawful activities in running the corporation that directly impacted employee benefit plans. Employees received 100% of their losses.
- In re Providian Financial Corp. ERISA Litigation, No. C 01-5027 (N.D. C.A.) (Breyer). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted company stock sales restrictions in the Plan valued between \$3.66 million and \$5.85 million, and allowed the Plan to recover in a parallel securities



action.

- In re Montana Power ERISA Litigation, No. 4:02-0099 (D. Mont.) (Haddon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of \$4.9 million plus access to additional monies held by others.
- In re Nortel Networks Corp. "ERISA" Litigation, No. 3:03-MD-1537 (M.D. Tenn.) (Nixon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of \$21.5 Million plus access to additional monies held by others.
- In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464, (D. Colo.) (Blackburn). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a \$33 million cash payment from Qwest Communications to the Plan for participants, a \$4.5 million cash payment from Bankers Trust/Deutsche Bank to the Plan for participants, a \$20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 *et seq.*
- In re Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D. N.Y.) (Lynch). One of several counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. Settlement reached that provided a \$79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- In re Xcel Energy, Inc. ERISA Litigation Civ. 02-2677 (D. Minn.) (Doty). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Provident Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.

## CONSUMER PROTECTION ACTIONS

- Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6 (W.D. Missouri). The firm served on Executive Committee in a nation-wide consumer class action composed of all persons throughout the United States who owned or purchased a hot water heater manufactured by defendants with a defective dip tube. Settlement reached involved 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages caused by a defective hot water heater.
- Drummond et al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III (Davidson Chancery, Tennessee) (Chancellor Lyle). Lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the

Metropolitan-Davidson County Board of Education. Settlement reached in which employees received 100% of their wages and benefits.

- Cox v. Shell Oil et al., Civ. No. 18844 (Weakley Chancery, Tennessee)(Judge Malon). Intervened in consumer class action composed of all persons throughout the United States, who owned or purchased polybutylene piping systems used in residential constructions or mobile homes that were defective. A global settlement was reached that resolved two competing lawsuits that was valued at \$1 billion.
- Davidson v. Bridgestone/Firestone, Inc and Ford Motor Co No. 00-C2298 (Davidson Circuit, Tennessee) (Soloman/Brothers). Lead counsel in a consumer action filed on behalf of a nationwide class of consumers against Bridgestone/Firestone, Inc and Ford Motor Co. that was certified as a nationwide class action concerning defective tires. Settlement was reached in conjunction with a companion case in Texas. Settlement was valued at \$34.4 million.

## WARN ACT CLAIMS

- Kizer v. Summit Partners, Case No. 1:1-CV-38 (E.D. Tenn.) Counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee in 2011. Case was successfully settled for \$275,000.
- Owens v. Carrier Corp., Case No. 2:08-2331-SHM P (W.D. Tenn.) Lead Counsel in class action on behalf of former Carrier Corp. employees at plant in Collierville, Tennessee that closed in 2008. Case was successfully settled on behalf of former employees for \$2.1 million after Lead Counsel successfully obtained class certification over plaintiffs' WARN Act claims.
- In re Sofa Express Inc., Case No. 07-924 (Bank. M.D. Tenn.) Lead counsel in class action on behalf of former Sofa Express, Inc. employees at a distribution center and headquarters in Groveport, Ohio in 2007. Case was successfully settled on behalf of former employees for \$398,000.
- Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP (M.D. Fla.). Lead counsel in class action on behalf of former DSE Inc. employees at manufacturing facilities in in Florida and South Carolina. Case successfully settled on behalf of former employees for over \$1 million.